



UNITED STATES DEPARTMENT OF COMMERCE
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08/382.108 01/31/95 RAJALA

G 11128

EXAMINER
CHAPMAN, J

ART UNIT PAPER NUMBER

3408

DATE MAILED:

10/08/96

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- ☒ Notice of References Cited by Examiner, PTO-892.
- ☒ Notice of Art Cited by Applicant, PTO-1449.
- ☐ Information on How to Effect Drawing Changes, PTO-1474.
- ☒ Notice of Draftsman's Patent Drawing Review, PTO-948.
- ☐ Notice of Informal Patent Application, PTO-152.
- ☐

Part II SUMMARY OF ACTION

- ☒ Claims 1-113 are pending in the application.
Of the above, claims 98-113 are withdrawn from consideration.
- ☐ Claims _____ have been cancelled.
- ☐ Claims _____ are allowed.
- ☒ Claims 1, 16, 38, 33, 51, 54, 68, 81-84, 93, 17-19, 29-31, 55-57, 59-61, 63, 85-87 are rejected.
- ☒ Claims 2-15, 20-28, 32, 35-37, 39-50, 52, 62, 64-67, 69-80, 82-92, 94, 95-97 are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.
- ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
- ☐ Formal drawings are required in response to this Office action.
- ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
- ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
- ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).
- ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.
- ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
- ☐ Other

EXAMINER'S ACTION

PTOL-326 (Rev. 2/93)

ATTACHMENT TO PAPER NO. 14
PTO Copy

REVIEWER 17

DATE 10/01/96

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 16, 38, 33, 51-54, 68, 81-84, 93 are rejected under 35 U.S.C. § 102(b) as being anticipated by Herrin et al. (see annotations on patent copy of drawings). Herrin et al. discloses a blank subassembly having front and back body portions and a crotch intermediate of and extending from the front to the back and the crotch extends between a pair of leg openings. The front body portions includes first and second front leg edge portions, a front end opposite the first and second leg edges and first and second front sides. The back body portion includes first and second back leg edge portions, a back end opposite the first and second leg edges and first and second back sides. The crotch includes first and second crotch edge portions on opposing sides thereof along the leg openings. The garment assembly includes a length extending between the front and back end, a width extending between the first and second sides and a longitudinal centerline between the first and second backs sides. Each of the first and second back leg edge portions having an angular portion extending generally along a line forming an arcuate angle with the centerline.

The garment blank assembly when laid out flat comprises a first layer extending from the first through the crotch to the second end. The garment blank also includes a first elastic attached to the first layer and extending from a first locus adjacent the first back side, as a first section of the first elastic, along the width of the blank, toward the front end at an arcuate angle with the centerline and following the first back leg edge portion toward the crotch, as a second section of the first elastic across the crotch, and as a third section of the first elastic away from the first end at an arcuate angle with the centerline and following the second back leg edge portion, to a second locus adjacent the back second side; the second section of the first elastic is substantially relaxed when the garment blank is laid out flat. The blank further includes a second elastic extending from a third locus adjacent the first front side, as a first section of the second elastic, along the width of the garment blank and following the first front leg edge toward the crotch, as a second section of the second elastic across the crotch, and as a third section of the second elastic along and following the second front leg edge portion to a fourth locus adjacent the second front side. The second section of the second elastic is substantially relaxed when the garment is laid out flat.

* Also the teaching of Herring includes the first and third section of the first elastic comprising first arcuate portions

and each arcuate portion having a first end connecting at the end of the first an angular portion and a second end connecting the back leg edge portion to the respective first and second crotch edge portion and the second section of the first elastic extends across the crotch between the second end of the first arcuate portions.

The first and third section of the second elastic comprising second arcuate portions and each arcuate portion having a first end connecting at the end of the first an perpendicular portion and a second end connecting the front leg edge portion to the respective first and second crotch edge portions and the second section of the second elastic extends across the crotch between the second ends of the first arcuate portions.

Herrin et al. also teaches a second layer and the first and third sections of the first elastic is attached to at least one of the first and second layers. Herrin also teaches a body side liner 50 having a front layer attached to the front portion of the first layer and a back layer attached to the back portion of the first layer and including an unsecured space between the front layer and the back layer (the portion accommodating the pad). See figures 2-3. The second section of the first elastic being disposed in the unsecured space and the second section of the first elastic is attached to at least one of the first and second layers. See column 5, lines 1-5

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

of 8/15/96 4. Claims 17-19, 29-31, 33, 55-57, 59-61, 63, 85-87^{are} rejected under 35 U.S.C. § 103 as being unpatentable over Herrin et al in view of Watanabe et al. (WT) and Great Britain patent '133.

Herrin et al teaches partial third and fourth elastic portions attached to the crotch edges but not extending entirely along these portions. This language is not specifically claimed. But WT discloses the third and fourth elastic attached to the first layer along the first and second crotch edges, respectively. WT discloses this common construction in order to provide and adjustable fit in the crotch section; the third and fourth elastics are distinct from the first and second. It would have been obvious to one of ordinary skill in the art to modify the crotch section of Herrin et al to include third and fourth

elastic attached to the crotch sides in order to provide an adjustable fit for the wearer in this garment section as shown by WT .

WT also teaches that the elastic is stretched when the garment blank assembly is laid out flat.

*

Also the teaching of Herring includes the first and third section of the first elastic comprising first arcuate portions and each arcuate portion having a first end connecting at the end of the first an angular portion and a second end connecting the back leg edge portion to the respective first and second crotch edge portion and the second section of the first elastic extends across the crotch between the second end of the first arcuate portions.

The first and third section of the second elastic comprising second arcuate portions and each arcuate portion having a first end connecting at the end of the first an perpendicular portion and a second end connecting the front leg edge portion to the respective first and second crotch edge portions and the second section of the second elastic extends across the crotch between the second ends of the first arcuate portions.

Herrin et al. also teaches a second layer and the first and third sections of the first elastic is attached to at least one of the first and second layers. Herrin also teaches a body side liner 50 having a front layer attached to the front portion of

the first layer and a back layer attached to the backportion of the first layer and including an unsecured space between the front layer and the back layer (the portion accommodating the pad). See figures 2-3. The second section of the first elastic being disposed in the unsecured space and the second section of the first elastic is attached to at least one of the first and second layers. See column 5, lines 1-5

Herrin also lacks the front edge portions being substantially perpendicular to the longitudinal centerline and the back ledge edge portions at an angle with this centerline. GB discloses such a disposable undergarment with the above described structure. It would have been obvious to incorporate this structure into Herrin garment as shown by GB in order to provide a better fit to the wearer of the garment.

Allowable Subject Matter

5. Claims 2-15, 20-28, 32, 35-37, 39-50, 58, 62, 64-67, 69-80, 88-92, 94, 95-97 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 3-15, 21-28, 35-37 and 40-50, 64-67 and 95-97 are allowable only as they depend on claim 2, 39, and 69. Claims 89-92 are only allowable as they depend on claim 88 above. See above prior art rejection.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Chapman


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whose telephone number is (703) 308-1310. The examiner can normally be reached on Mon.-Fri. from 8:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Clifford Crowder, can be reached on (703) 308-0949. The fax phone number for this Group is (703) 305-3463/64.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0361.


Jeanette E. Chapman
PRIMARY PATENT EXAMINER
Art Unit 3408